91-1928

(1)

Supreme Court, U.S.
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No._____

SUPREME COURT
OF THE UNITED STATES
October Term 1992

EDWARD F. MERRIGAN and
DENISE L. MERRIGAN

Petitioners,

versus

AFFILIATED BANKSHARES OF
COLORADO, INC. ETAL

Respondents.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

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CERTIFICATE OF MAILING

I hereby certify that three true and correct copies of the foregoing Petition for Writ of Certiorari was placed in the United States mail, postage prepaid, certified, return receipt requested on May 29th, 1992 addressed to the following: E. Murphy

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QUESTIONS PRESENTED

I

WHAT CAN MIDDLE CLASS, SMALL BUSINESS PEOPLE DO WHEN OFFICERS OF THE COURT AND THEIR CLIENTS, AFFILIATED BANKSHARES, INC., HAVE NO RESPECT FOR THE LAW, THE JUSTICE SYSTEM OR HUMAN DECENCY, BUT USE THE LEGAL SYSTEM FOR BLACKMAIL AND REVENGE?

RESPONDENTS AFFILIATED BANKSHARES, INC., USING THEIR MONEY AND POWER, HAVE CONSPIRED AND CAUSED IN FEDERAL AND STATE COURTS, THE SUPPRESSION OF EVIDENCE AND OBSTRUCTION OF JUSTICE IN OUTRAGEOUS PROPORTIONS.

THEY COMMITTED IN TRIALS AND HEARINGS, OUTRAGEOUSLY FRAUDULENT, PERJURIOUS CRIMES. IMPOSTORS WERE SWORN IN AND TESTIFIED AS GOVERNMENT EMPLOYEES. FORGED NOTES WERE PRESENTED AS EVIDENCE.

BY BLACKMAIL OR BRIBES, THEY MADE OUR ATTORNEYS OF RECORD AGENTS OF THE BANK. PETITIONERS ARE FORCED TO REPRESENT PRO SE. AFFILIATED BANKSHARES CONSPIRED WITH RESPONDENTS KENNETH JOHNSTON, II, AND WILLIAM PARSONS TO BRING OUTRAGEOUSLY FRAUDULENT, PERJURIOUS COURT ACTIONS AGAINST THE MERRIGANS TO EXTORT MONEY AND MAKE IT FINANCIALLY IMPOSSIBLE FOR THE MERRIGANS TO PURSUE ANY FURTHER ACTION AGAINST THE BANK.[1]

IN 1991, EDWARD AND DENISE MERRIGAN FILED A CIVIL RIGHTS ACTION IN THE U.S. DISTRICT COURT IN WASHINGTON, D.C., UNDER 28 USC § 1343 AND 42 USC 1985, STATING IN OUR SHOW CAUSE FOR VENUE THAT DEFENDANTS WOULD USE THEIR MONEY AND POWER TO SUPPRESS EVIDENCE, OBSTRUCT JUSTICE AND CAUSE FRAUDULENT TRIALS AND PRE-

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[1]Respondents, Martin Berkley, I.H. Kaiser, Larry Berg, Tom Bergh, Lee Hawke, and Ann Meredyth are former attorneys of record.

VENT US OBTAINING HONEST LEGAL REPRESENTATION IN THE COLORADO DISTRICT COURTS.

IN CONSIDERATION OF WITNESSES AND WHERE THE EVIDENCE WAS, THE U.S. DISTRICT COURT IN WASHINGTON TRANSFERRED UNDER 28 USC 1343 TO THE U.S. DISTRICT COURT IN DENVER, COLORADO.

AFFILIATED BANKSHARES, INC., CONSPIRED TO CAUSE THE MOST OUTRAGEOUS FRAUDULENT HEARINGS.

MAGISTRATE DONALD ABRAM PRESIDED AT THE HEARING WITH JUDGE LEWIS BABCOCK.[2,3]

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[2] Petitioners Edward and Denise Merrigan never signed a consent form under 28 USC § 636 that Magistrate Abram could conduct any or all proceedings in our civil rights case.

[3] Petitioners have had allegations that Magistrate Abram is related and the uncle to one of the major Defendants, H. Kenneth Johnston, II. Being denied discovery by the court, we can neither prove or disprove these allegations.

THE HEARING, MAGISTRATE'S RECOMMENDATIONS, THE JUDGE'S ORDER AND JUDGMENT ARE REPUGNANT TO THE UNITED STATES CONSTITUTION AND PETITIONER'S CIVIL RIGHTS WERE FURTHER DENIED UNDER 28 USC 1343/42 USC 1985, AMENDMENT 14, SECTION I OF THE U. S. CONSTITUTION.

PLAINTIFFS EDWARD AND DENISE MERRIGAN WERE DENIED DISCOVERY. APPROXIMATELY 37 EXHIBITS SUBMITTED TO THE COURT ON A TIMELY BASIS FOR THE PRE-TRIAL HEARING WERE IGNORED BY THE COURT.

PLAINTIFFS SUBMITTED THIS EVIDENCE AN ADDITIONAL THREE TIMES CERTIFIED MAIL WITH RETURN RECEIPTS. THIS ALSO WAS IGNORED BY THE COURT.

DEFENDANTS CONSPIRED IN ORDER TO INTIMIDATE AND BLACKMAIL PLAINTIFFS AND CHANGE DATE FOR THE STATUE OF LIMITATIONS SUBMITTED TO THE COURT AS OUTRAGEOUSLY FRAUDULENT AND PERJURIOUS AFFIDAVITS. PLAINTIFFS SUBMITTED TO THE COURT IRREFUTABLE EVIDENCE PROVING HOW FRAUDULENT AND PERJURIOUS THE AFFIDAVITS WERE AND THE COURT AGAIN IGNORED THE EVIDENCE AND THERE WERE NO SANCTIONS.

DEFENDANTS AFFILIATED BANKSHARES, INC., ET AL., DID AS THEY PLEASED. THEY REFUSED DISCOVERY UNDER F.R.C. & P. 37, NO SANCTIONS - THEY ANSWERED MOTIONS UNTIMELY, IF AT ALL, THERE IS CONTEMPT CHARGES THROUGHOUT THE ENTIRE PROCEEDING.

JUDGE LEWIS T. BABCOCK'S ORDER AND JUDGEMENT DISMISSES ALL THE DEFENDANTS INVOLVED IN THE CONSPIRACIES, EVEN DEFENDANTS THAT WERE IN CONTEMPT OF COURT FOR NOT ANSWERING THE ORIGINAL SUMMONS.

ON OCTOBER 26, 1991, PLAINTIFFS FILED AN APPEAL WITH THE TENTH CIRCUIT COURT OF APPEALS.

ON MARCH 2, 1992, WE RECEIVED AN UNSIGNED ORDER AND JUDGEMENT FROM THE COURT OF APPEALS WITH THE NAMES OF CIRCUIT JUDGES MOORE, TACHA AND BRARBY - DENYING OUR APPEAL.

THE ORDER AND JUDGEMENT STATE THAT INSTEAD OF A CIVIL RIGHTS CASE UNDER 28 USC § 1343, THE HONORABLE JUDGES RULED UNDER A BANKRUPTCY CASE OF 28 USC 1334, THE LAST TWO NUMBERS IN THE UNITED STATES CODE WERE MERELY REVERSED - THIS IS IMPOSSIBLE FOR THREE CIRCUIT JUDGES TO MAKE THIS MISTAKE

II

HOW CAN PETITIONERS PROTECT THEMSELVES AGAINST WHITE COLLAR CRIME WHEN RESPONDENTS, AFFILIATED BANKSHARES, INC., ET AL., CONSIDER

THEMSELVES ABOVE THE CONSTITUTION OF THE UNITED STATES, ABOVE ANY LAWS THAT THEY ARE SO RICH AND POWERFUL THEY CAN MAKE THEIR OWN LAWS, AND THE SMALL BUSINESS, MIDDLE CLASS PERSON LOSES ALL HIS CONSTITUTIONAL RIGHTS.

EDWARD AND DENISE MERRIGAN NOT ONLY LOST THEIR CONSTITUTIONAL RIGHTS BUT AFFILIATED BANKSHARES, INC., USED THE LAW TO VICIOUSLY PROSECUTE PETITIONERS.

THIS IS EVIDENCED BY THE FRAUDULENT AND PERJURIOUS AFFIDAVIT AND MOTIONS TOM BERGH, OUR FORMER ATTORNEY OF RECORD, AND WILLIAM AHLSTRAND, THE BANK'S ATTORNEY, CONSPIRED TO SUBMIT TO FEDERAL COURT. THEY VICIOUSLY AND PURPOSEFULLY CONSPIRED TO RUIN THE MERRIGAN'S FINANCIALLY, PHYSICALLY AND MENTALLY.

LISTING OF THE PARTIES

Petitioners

The Petitioners are Edward F. Merrigan and Denise L. Merrigan, who at the time of the original filing in 1980 in the District Court in Boulder, Colorado, owned a restaurant in the City of Lafayette, Colorado.

Respondents

The Respondents are the Affiliated Bankshares, Inc., a large holding company with approximately 27 wholly owned subsidiary banks in Colorado.

Respondent William Ahlstrand is the bank's attorney of record, Andrew Rosen also acted as the bank's attorney of record in state court litigations. Alvin Tomlinson is President of the Affiliated First National Bank of Lafayette, Colorado.

Respondents Martin Berkley, I. H. Kaiser, Larry Berg, Tom Bergh, Lee Allen Hawke, and Ann Meredyth, are former attorneys of record for the Petitioners.

H. Kenneth Johnston, II, was attorney of record for Benchmark Builders and William Parsons, who brought a civil lawsuit against the Merrigans.

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C. The Decisions of the Court of Appeals

REASONS FOR GRANTING THE WRIT

A. CONSIDERATION FOR GOVERNING REVIEW ON WRIT OF CERTIORARI, RULE 10.1(A).

A U.S. COURT OF APPEALS HAS SO FAR DEPARTED FROM THE ACCEPTED AND USUAL COURSE OF JUDICIAL PROCEEDINGS AND SANCTIONED SUCH A DEPARTURE FROM A LOWER COURT, AS TO CALL FOR AN EXERCISE OF THE COURT'S POWER OF SUPERVISION.

THIS IS NOT A HIGHLY TECHNICAL LEGAL CASE. IT IS A CASE WRITTEN BY A LAYMAN BECAUSE WE HAVE NO OTHER CHOICE. WE DO GET REPETITIVE, BUT THE WHOLE CASE IS REPETITIOUS.

PETITIONERS ASK FOR NOTHING MORE THAN TO HAVE THEIR CIVIL RIGHTS RESTORED AND JUSTICE THAT WE FOUND WAS IMPOSSIBLE TO OBTAIN IN THE LOWER COURTS.

B. IN THE INTEREST OF JUSTICE, TO PREVENT LARGE CORPORATIONS MISUSING THEIR POWER AND MONEY TO MAKE A MOCKERY OF THE CONSTITUTION OF THE UNITED STATES AND THE COURT SYSTEMS OF THE COUNTRY.

C. HEARINGS IN THE U.S. DISTRICT

COURT PRESIDED OVER BY
MAGISTRATE DONALD ABRAM WERE
A COMPLETE FRAUDULENT MOCKERY
OF THE JUSTICE SYSTEM IN
THIS COUNTRY.

PLAINTIFFS WERE DENIED DISCOVERY,
THEIR EVIDENCE WAS DENIED.
DEFENDANTS COMMITTED OUTRAGEOUS
CONSPIRACIES OF PERJURY AND
FRAUD WITH THE OBVIOUS REASON TO
BLACKMAIL PLAINTIFFS. THE
MERRIGANS SUBMITTED IRREFUTABLE
EVIDENCE OF PERJURIOUS AFFIDAVITS
AND ATTEMPTED BLACKMAIL
AND FRAUD TO THE COURT.
THERE WERE NO SANCTIONS.

DEFENDANTS ANSWERED MOTIONS
ON AN UNTIMELY BASIS IF AT
ALL. COURT ORDERS WERE IGNORED
AND AGAIN NO SANCTIONS.

MAGISTRATE ABRAM'S RECOMMENDATION
AND JUDGE LEWIS BABCOCK'S ORDER
AND JUDGEMENT ARE REPUGNANT TO
THE CONSTITUTION OF THE
UNITED STATES, AS WERE ALL
THE HEARINGS AND APPEALS.

D. ORDER AND JUDGEMENT DENYING OUR APPEAL TO THE TENTH CIRCUIT COURT OF APPEALS IN ORDER TO JUSTIFY THE FRAUDULENT ACTIONS OF THE UNITED STATES DISTRICT COURT MERELY BY REVERSING THE LAST TWO NUMBERS OF THE TITLE FROM A CONSPIRACY TO DENY CIVIL RIGHTS UNDER 28 USC § 1343 TO A CONSPIRACY TO COMMIT BANKRUPTCY UNDER 28 USC § 1334.

JUSTIFYING THE U.S. DISTRICT COURT'S ACTIONS UNDER 1334, THAT NO SANCTIONS, EVIDENCE OR DISCOVERY WERE PERMITTED BECAUSE UNDER 1334 THE COURT HAD NO JURISDICTION, STATUTE OF LIMITATIONS HAD RUN, ETC. JURISDICTION UNDER 1332 WAS SIMPLY IGNORED.

THIS ACTION WAS TRANSFERRED FROM U.S. DISTRICT COURT IN WASHINGTON, D.C. UNDER 1343. THE TITLE OF CIVIL RIGHTS UNDER 28 USC § 1343 APPEARS IN THE INDEX THROUGHOUT THE ENTIRE ACTIONS. IT IS AN INSULT TO THE COURT OF APPEALS THAT THREE CIRCUIT JUDGES WOULD MISTAKE A CIVIL RIGHTS ACTION FOR ONE OF BANKRUPTCY.

OPINIONS

In approximately nine state court actions, the Merrigan's evidence was denied as was their rights to discovery and honest legal representation, exactly as happened in the U. S. District Court in Denver, Colorado, and the Tenth Circuit Court of Appeals.

Merrigans have approximately 37 pieces of evidence proving every accusation on the original compliant. In every one of these actions, state and Federal, the courts did exactly what the U. S. District Court in Denver did at the pre-trial hearing. They just ignored our evidence with no legal reason given. Due to the conspiracy the Affiliated Bankshares created to suppress evidence and obstruct justice, the Merrigans have yet to have one piece of evidence accepted by any court, do any discovery in any

of these litigations. Under these circumstances, the opinions and recommendations of any court involved in these litigations is useless.

JURISDICTION

Petitioners timely appealed the original District Court decision to the Court of Appeals for the Tenth Circuit by Claim of Appeal dated January 22, 1992. On March 2, 1992, Petitioners received a denial from the Court of Appeals.

Petitioners invoke this Court's jurisdiction under 28 USC §1254(1), on appeal from the Tenth Circuit Court of Appeals, Case No. 91-1367, dated March 2, 1992.

CONSTITUTION AND STATUTES

U. S. Constitution Amendment 14, Section 1

28 USC § 1254

28 USC § 1343

42 USC § 1985

28 USC § 1332

28 USC § 636

CONSTITUTIONAL PROVISIONS AND STATUTES INVOLVED

The Fourteenth Amendment to the Constitution states:

"Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

28 USC § 1343 states:

"Civil rights and elective franchise

The district courts shall have original jurisdiction of any civil action authorized by law to be commenced by any person:

(1) To recover damages for injury to his person or property, or because of the deprivation of any right or privilege of a citizen of the United States, by any act done in furtherance of any conspiracy mentioned in section 1985 of Title 42;

(2) To recover damages from any person who fails to prevent or to aid in preventing any wrongs mentioned in section 1985 of Title 42 which he had knowledge were about to occur and power to prevent;

(3) To redress the deprivation, under color of any State law, statute, ordinance, regulation, custom or usage, of any right, privilege or immunity secured by the

Constitution of the United States or by any Act of Congress providing for equal rights of citizens or of all persons within the jurisdiction of the United States;

(4) To recover damage or to secure equitable or other relief under any Act of Congress providing for the protection of civil rights,"

42 USC § 1985 states:

"(2) Obstructing justice; intimidating party, witness, or juror. If two or more persons in any State or Territory conspire to deter, by force, intimidation, or threat, any party or witness in any court of the United States from attending such court, or from testifying to any matter pending therein, freely, fully and truthfully, or to injure such party or witness in his person or property or account of his having so attended or testified, or to influence the verdict,

presentment, or indictment of any such grand or petit juror in any court, or to injure such juror in his person or property on account of any verdict, presentment, or indictment lawfully assented to by him, or if his being or having been such juror; or if two or more persons conspire for the purpose impeding, hindering, obstructing, or defeating, in any manner, the due course of justice in any State or Territory, with intent to deny to any citizen the equal protection of the laws, or to injure him or his property for lawfully enforcing, or attempting to enforce, the right of any person, or class of persons, to the equal protection of the laws."

28 USC § 636 states:

(1) Upon the consent of the parties, a full-time United States magistrate or a part-time United States magistrate who serves as a full-time judicial officer may conduct any

or all proceedings in a jury or nonjury civil matter and order the entry of judgement in the case, when specially designated to exercise such jurisdiction by the district court or courts he serves. Upon the consent of the parties, pursuant to their specific written request, any other part-time magistrate may exercise such jurisdiction, if such magistrate meets the bar membership requirements set forth in section 631 (b) (1) and the chief judge of the district court certifies that a full-time magistrate is not reasonably available in accordance with guidelines established by the judicial council of the circuit. When there is more than one judge of a district court, designation under this paragraph shall be by the concurrence of a majority of all the judges of such district court, and when there is no such concurrence, then by the chief judge."

STATEMENT OF THE CASE

Jurisdiction in the U. S. District Court in Denver, Colorado, and the Tenth Circuit Court of Appeals was established by 28 USC § 1343 "Civil rights action lies in any U. S. District Court".

Further established under 28 USC § 1332 (1) (a)

The District Courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum value of $50,000, exclusive of interest and cost and is between citizens of different states.

Petitioners had established jurisdiction under Diversity with one of the Respondents living in California and another in Washington, D.C.

This was ignored by the Tenth Circuit Court of Appeals and the U. S. District Court.

A. Background Litigations

The Plaintiffs hereafter referred to as the Merrigans, which to respond to the Defendants Affiliated Bankshares, Inc., Affiliated First National Bank of Lafayette, Alvin Tomlinson, William Ahlstrand, Andrew Rosen, I. H. Kaiser and Kenneth Johnston, II, hereafter referred to as Ahlstrand, et al.

The Merrigans state to the court as follows: This action was filed in Washington, D.C. for the reasons that have occurred in the hearing in Federal Court, i.e., the Merrigans know Defendants using their money and power could not allow the Merrigans to have an honest hearing and trial.

This case was filed under 28 USC § 1343 and 42 USC § 1985 and transferred by Judge Green of the U. S. District Court in Washington to the U. S. District Court in Denver, Colorado, under § 1343 it was not filed only under 42 USC 1985 as Ahlstrand, et al., keep insisting. Defendants and the court continually tried to change the title and section of our case throughout the entire proceedings in court.

The Merrigans want only to have their civil rights restored that are guaranteed to them by the Constitution of the United States.

Since the Merrigans filed the initial lawsuit against Defendants in April, 1984, they have lost all their civil rights under the Constitution of the U. S. Amendment 14, Sec 1. "equal protection of the law". The

Defendants Ahlstrand, et al., have not only taken away our Constitutional rights of "equal protection of the law" but have used the law to further prosecute and blackmail the Merrigans.

A. The Merrigans are not allowed to put evidence in a court of law, either state or Federal. In the Federal court hearings, Case No. 91-B-371 the Merrigans submitted to court on a timely basis exactly as the court ordered over thirty pieces of evidence. This evidence was ignored by the court and in Magistrate Judge Abram's recommendations he states Plaintiffs "submitted no evidence and stand on their pleadings. When the Merrigans read this statement believing that something happened in the mail system, the Merrigans on two different occasions resubmitted their evidence to Magistrate Judge Abram's office and to Judge Babcock's office, on both

occasions this mail was sent certified return receipt required so we were sure it reached its destination.

On all occasions this evidence was ignored by the court. Complete evidence from previous trials. This is irrefutable evidence of the conspiracies that existed between the Affiliated Bankshares, Inc., and our attorneys of record and other Defendants named in the complaint.

It proves by court papers the conspiracies that are alleged in the original complaint, in the District court in Boulder, Colorado.

1. That the attorneys for Affiliated Bankshares, Inc., William Ahlstrand and Andrew Rosen did conspire to make our attorney of record Thomas Bergh an agent of the bank;

where at the original bank trial in April, 1984, the attorneys conspired to have the most outrageously fraudulent trial; Merrigans as Plaintiffs when we tried to protest were told by our attorney "to sit down and shut up".

The conspiring attorneys proceeded to:

A. Swear in and have testify an impostor representing a government employee, a Ms. Tiny Collins, loan officer at the Small Business Administration.

B. Use a forged 3 x 5 note as a bank loan application to justify publishing and distributing a $10,000 complete loan turn-down issued by the bank in order to ruin Merrigans' credit for an SBA or any lending institution loan.

C. We were not allowed witnesses.

D. We paid our attorney of record approximately $6,700.00 for evidence; our attorney submitted approximately 10 minor pieces and these he withdrew.

E. Thomas Bergh, knowing of the conspiracy that we could never obtain honest legal representation and submit any evidence to court, further sued us for additional law fees to be used as blackmail in case we ever brought legal action against the conspiring bank and attorneys again.

2. This evidence further goes on to prove that in approximately eight other hearings and court actions, the Affiliated Bankshares, Inc., and their attorneys further conspired to.

A. Make it absolutely impossible for the Merrigans to obtain honest legal representation; our attorneys of record were either made agents of the bank or intimidated to the extent that they just closed their law offices and went into hiding.

B. Not one of these court actions were we allowed to submit one piece of evidence, do any discovery or have one witness testify.

C. Using this conspiracy further, the Affiliated Bankshares, knowing with their power and money could prevent the Plaintiffs from having any honest trial, conspired with Kenneth Johnston, II, and William Parsons to throw another outrageously fraudulent and perjurious lawsuit and illegally garnish approximately $37,000.00 of the Merrigans.

This is the same way they conspired with Thomas Berg; in order to blackmail and keep the Merrigans financially unable to have court actions, they'd conspire with the named co-Defendants and bring outrageously fraudulent lawsuits against the Plaintiffs.

Thomas Bergh, Kenneth Johnston, II, and William Parsons know that the Affiliated Bankshares, would make it impossible for the Merrigans to obtain honest legal representation and to prevent them from submitting any evidence to court.

In Federal Court, all this is proven by the evidence, evidence the Merrigans have been trying to get into court for approximately nine trials and hearings. In the suppression of evidence, interrogations of witnesses, obstruction of justice, our civil rights under 28 USC § 1343 and 42 USC § 1985

and Amendment 14, Sec 1, "equal protection of the law", our civil rights have been violated to outrageous proportions.

The Affiliated Bankshares, Inc., not only denied us of "equal protection of the law" but through their conspiracy used the law to blackmail, intimidate and prosecute the Merrigans for the past ten years.

B. Plaintiffs are denied discovery in the U. S. District Court.

Merrigans under F.R.P. & C. 34 sent to every Defendant a motion to produce evidence, documents, etc., that Ahlstrand, et al., testified in state courts that they had readily available. Not one of the Defendants came forth to produce this evidence requested.

Not one of the Defendants objected under F.R.C. & P. 26, they just ignored the request. (It must be noted that none of the Defendants have ever produced one piece of evidence to prove their case. In the hearing of September 6, 1991, Magistrate Abram asked if any Defendant had any evidence to present to court in their behalf - not one of the Defendants could produce one piece of evidence to help prove their case.)

When Defendants failed to produce any evidence, Merrigans moved for and received a court order dated July 8, 1991, from Judge Abram ordering Defendants Johnston, Hawke and Parsons to produce under F.R.C. & P. 37. This court order was ignored by the court then later denied for unexplained reasons, Appendix of the U. S. District Court, Page 67 Opinions.

C. Defendant Affiliated Bankshares, Inc., has further violated Merrigans' constitutional rights by creating a conspiracy to deny them "equal protection of the law" the list of Defendants which are former attorneys of the Merrigans proves that the Affiliated Bankshares, Inc., have made it impossible for the Merrigans to retain an honest attorney; and have ruined Ed Merrigan's health in trying to protect themselves against the prosecution, blackmail and intimidation of Defendants conspiracies.

Merrigans were left no choice except to represent themselves pro se.

STATEMENT OF FACTS

A. On September 6, 1991, we attended what the court termed a pre-trial conference presided over by Magistrate Donald Abram. We

were denied discovery and approximately 37 pieces of our evidence was denied.

B. On September 9, 1991, the Magistrate entered his recommendation that 11 motions to dismiss filed by the Defendants be granted and that judgement against the Merrigans for attorney fees and costs.

Plaintiffs' response to the Recommendations of Magistrate Judge dated the 21st day of September, 1991, submitted in compliance on a timely basis in direct compliance with Local Rules of Practice, Rule 602(c).

Ignored by the court.

Paragraph 4 states the Honorable Lewis T. Babcock's case was "frivolous and without a basis in law or fact".

If the court ignores the evidence and denies discovery, the case is frivolous and without a basis in law or fact.

STATEMENT OF RESPONDENT AFFILIATED BANKSHARES' DEFENSE IN U. S. DISTRICT COURT AND PETITIONERS' RESPONSE

Plaintiffs allege that in the lower court case in the District Court in Boulder, Colorado, Defendants conspired to continually suppress evidence and obstruct justice and to deny Plaintiffs their civil rights under 28 USC 1343 and 42 USC 1985.

Plaintiffs relief requested is a new trial at Federal level, to submit evidence, subpoena more evidence, have witnesses testify, and to correct deprivation of our civil rights under the Constitution.

(1) Defendants stated "The Merrigans claimed a conspiracy pursuant to 42 USC § 1985".

This is the same redundant statement that Ahlstrand has made throughout this case and again the Defendants would have the court believe that Merrigans' case was filed under 42 USC § 1985 and not 28 USC § 1343. Both the court and the Respondents continually tried to change the title our civil rights case was filed under.

Ahlstrand states "that you can only lose your civil rights in a state court" (which now is a moot statement considering the hearing in Federal Court).

Title 42 USC § 1985 which 28 USC 1343 states "(1) To recover damage or injury to his person or property or because of the deprivation of any rights or privilege of a citizen

of the United States, by any act done in furtherance of any conspiracy mentioned in Sec 1985 of Title 42",

"Sec 1985 of Title 42" states:

"(2) Obstructing justice; intimidating party, witness, or juror. If two or more persons in any State or Territory conspire to deter, by force, intimidation, or threat, any party or witness in any court of the United States from attending such court, or from testifying to any matter pending therein, freely, fully and truthfully, or to injury such party or witness in his person or property on account of his having so attended or testified, or to influence the verdict, presentment, or indictment of any such grand or petit juror in any court, or to injury such juror in his person or property on account of any verdict, presentment, or indictment

lawfully assented to by him, or if his being or having been such juror; or if two or more persons conspire for the purpose impeding, hindering, obstructing, or defeating, in any manner, the due course of justice in any State or Territory, with intent to deny to any citizen the equal protection of the laws, or to injure him or his property for lawfully enforcing, or attempting to enforce, the right of any person, or class of persons, to the equal protection of the laws."

a. Defendants state § 1985(2) which precedes the semicolon prohibits two or more persons from conspiring to disrupt proceedings "of any court of the U.S." Defendants further state the "Plaintiffs claim all relate to litigation which was filed in the state court rather than any court in the U.S."

Defendants have subverted this statement that the interpretation means that you can only be deprived of your civil rights in a Federal Court.

§ 1985 further states: "or to influence the verdict, presentment or indictment of any such grand or petit juror in any court".

Plaintiffs' complaint clearly alleges that Defendants did conspire to obstruct justice, intimidating party witnesses.

b. Civil Rights § 1343(2) "To recover damages for injury to his person or property, or because of the deprivation of any right or privilege of a citizen of the U.S., by any act done in furtherance of any conspiracy mentioned in § 1985 or Title 42".

c. Conspiracies to deny people their civil rights under the Constitution of the United States, can happen in any court.

Plaintiffs further allege in their complaint, that Defendants conspired to prevent Plaintiffs as stated in § 1343(4) "To recover damages as to secure equitable or other relief under any act of Congress providing for the protection of civil rights".

3. Defendants paragraph 2(b) § 1985(2) the Motion to Dismiss states "applied to state court actions and requires an additional allegation of some racial or class based discrimination in order to state a claim under that section."

a. § 1985 states "to deny any citizen" their are no allegations of some racial or class based discrimination necessary to

state a claim under this section. Plaintiffs complaint clearly alleges that they were denied equal protection of the law in that defendants continued conspiracies to obstruct justice, and suppress evidence to make plaintiffs attorney of record agents, of the bank is a clear allegation that plaintiffs civil rights were denied equal protection of the law.

§ 1343(3) "of any right, privilege or immunity secured by the Constitution of the U.S. or by any act of Congress providing for equal rights of citizens or all persons within the jurisdiction of the U.S"

Ahlstrand further states "the Merrigans are Caucasians". The Constitution of the U. S. mentions no racial groups. The Merrigans have lost their Constitutional rights under Amendment 14, Sec 1 "equal protection

of the law" this action is class-based that the Affiliated Bankshares, Inc., have absolutely no regard for the small business man and the middle class working man. Their actions in the City of Lafayette Colorado, are absolute proof of these allegations.

Merrigans are not claiming loss of civil rights due to belonging to any racial or minority groups, their claim in class-based due to their status and wealth.

The conspiring banks have shown an unprecedented disregard in the discrimination of the lower middle class people.

(2) Defendants state, "The statute of limitations has expired as to all claims against all Defendants."

a. The Colorado law reads: The statute of limitations does not begin to run

until the Merrigans "become aware of the wrong done".

Defendant Tom Bergh made us further aware of the wrong done as late as 1991. (Mr. Tom Bergh was our attorney of record at the original Affiliated Bankshares trial.)

b. The law further reads "where there is an alleged conspiracy the statute of limitations runs from each act of conspiracy".

Plaintiffs pre-trial order evidence as undisputed fact that Defendants Tom Bergh and William Ahlstrand conspired to commit outrageous fraud and perjury through outrageous perjurious affidavits to the Federal Court as late as April 24, 1991. As the law states, the statute of limitations begins at this point.

The court did absolutely nothing to sanction Tom Bergh's and William Ahlstrand's crimes in court.

(3) "Ahlstrand, et al., further state: The allegations in the Complaint were conclusory and did not set forth any specific acts of conspiracy."

The Merrigans, in the original complaint, have stated as fact every act of conspiracy that in each and every court action the entire list of Defendants conspired to withhold evidence and obstruct justice; the evidence that the Merrigans have been trying to submit to Federal and State courts prove these conspiracies beyond any doubt.

II. Defendants state: The Court did not deny Plaintiffs' Exhibits or Evidence:

It is ludicrous for Ahlstrand to state "the Court did not deny Plaintiffs' exhibits or evidence.[4]

"The evidence were exhibits submitted by the Merrigans were either exhibits in their previous state court litigations or were exhibits relating to their previous state court litigations. None of the exhibits had anything to do with claims being asserted by the Merrigans in the Federal Court."

Again, to explain to Mr. Ahlstrand, et al., this case was filed in Federal Court under Sec 28 USC Title 1343 and Sec 42 USC Title 1985 that Affiliated Bankshares, et al., conspired in state courts to deny us our

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[4]The Court itself admits in the appeal denial that all evidence and discovery were denied in the U. S. District Court.

civil rights in several state court actions by obstructing justice, suppressing evidence by causing outrageously fraudulent trials and making our attorney or record agents of the bank and denying Plaintiffs "equal protection of the law".

This evidence proves the Merrigans were denied their civil rights and that Defendant Affiliated Bankshares, Inc., did conspire to commit fraudulent trials in both courts.

Our Claim for Relief states: "that we have taken our case to the Federal Court because it is impossible, with the Affiliated Bankshares, Inc., using their money and power to obstruct justice by suppressing evidence, causing fraudulent trials in a state court.

Now Mr. Ahlstrand, et al., states: "that this evidence does not relate to our actions in the Federal Court".

Mr. Ahlstrand has the impression that the Plaintiffs are not entitled to submit evidence or do discovery; the Merrigans are entitled to their civil rights in spite of the attitude of the Defendants; we are entitled to "equal protection of the law" to be able to have honest court trials which includes submitting our evidence and doing discovery despite the money and power the Defendants have.

<u>This evidence was submitted in the original filing in Washington, D.C., and the Honorable Judge Green stated: "that it more than proves our case but also proves that the case should be moved to Denver, Colorado, where more evidence can be obtained".</u>

The Federal Court in the Denver trial requested at the pre-trial hearing that the Merrigans submit this evidence, which the Merrigans did pursuant to court orders.

The court, after three attempts to submit, never mentioned this evidence, they just denied it. The Honorable Judge Green transferred this evidence from Washington, D.C., under Washington, D.C., Case Number 91-0065, filed January 11, 1991.

STANDARD OF REVIEW

The U. S. District Court's attitude on the Merrigans doing discovery is well defined in the court transcript of July 26, 1991.

Page 4-10, the court states "there are motions filed by the Defendants which we intend to - - - Plaintiffs which we intend to take up today." Those being motions to compel the Defendants to respond that being as to H. Kenneth, II, the motion to produce as to Lee Hawke, the motion to produce as to William Parsons and Johnston and the motion for order compelling discovery as to Mr. Hawke. (The court had already ordered the above named Defendants to respond under F.R.C.&P. 37)

The Magistrate further states "The court is going to deny each motion counsel, what we're going to - - - what we will do at this time."

The court goes on through the remainder of the transcript assuring all the Defendants that there was no need to worry, all the Plaintiffs' motions would be denied with the court giving no legitimate reason for denial.

The transcript definitely shows with the court's attitude, the Merrigans had no chance at this hearing.

It must be noted:

a. The Merrigans issued under Discovery Notice to Produce under F.R.C.&P. 34, not one Defendant came forth with the evidence requested and a great deal of this evidence was obtained by our attorney of record, that we had paid these attorneys to obtain when they represented us.

b. Defendants were so sure of themselves that they didn't even bother to take Protective Orders under F.R.C.&P. 26(c).

c. The motions of the Plaintiffs the court refers to in the transcript are motions for the Defendants Affiliated Bankshares, et al., compelling Defendants to produce under F.R.C.&P. 37; as stated, for unknown reasons, the court denied.

d. The court's denial of the Plaintiffs motion for court orders compelling Defendants to make discovery came after the court had already issued a motion under F.R.C.&P. 37 compelling Defendants Johnston, II, Hawke and Parsons to do discovery; Defendants ignored this court order and did absolutely nothing; the court brought no sanctions against them.

e. In the transcript of the hearing of September 6, 1991, Page 6(1):

The court in order to do discovery, keeps insisting depositions should have been taken under Rule 26 F.R.C&P. which states "parties may obtain discovery by one or more of the following methods: depositions upon oral examination or written questions; written interrogations; production of documents"

f. The court's insistence that depositions had to be taken came after the court ignored sanction under F.R.C.&P. 37 and motions compelling the remainder of the Defendants to do discovery were ignored by the court.

The court's attitude is evidenced in the transcript and as the Merrigans knew, they had absolutely no chance of doing any discovery.

g. Defendants states: "Even if the court ruled incorrectly on any of the Merrigan's discovery motions, the denial of these motions is a harmless error." This is such an outrageously false statement that any hearing or trial can be done in justice if Plaintiffs are denied discovery.

IV. Defendants state: "The Defendants complied with all orders of the court."

Defendants further states: "The Merrigans' third issue for appeal was that the court denied sanctions against Defendant Thomas R. Bergh for submitting a fraudulent affidavit and for denying sanctions against Defendant William Ahlstrand," who endorsed the fraudulent and perjurious affidavit.

Defendants would have you think that the Defendants Thomas Bergh and William Ahlstrand committed a minor infraction of the law.

Whereas the Defendants have conspired in a Federal Court to cause a fraudulent and perjurious trial in an effort to have the statute of limitations date set beyond the state statute of limitations of two years; Tom Bergh (Merrigans' attorney of record at the original Affiliated Bankshares trial in 1984) swore in an affidavit to the Federal Court that he had no contact with the Merrigans since August 29, 1988; Defendant William Ahlstrand conspired to endorse this perjurious affidavit.

a. On April 18, 1991, Plaintiffs Edward and Denise Merrigan, received from Tom Bergh's office a copy of the judgement against them for Bergh's law fees approximately six days prior to Defendant signing an oath that he had not contacted us on this matter since August 29, 1988.

b. Edward and Denise Merrigan, on May 14, 1991, were served by Thomas Bergh a Motion to Approve Interrogations and Orders filed in Boulder County Court, April 8, 1991. Twenty-four days before Defendant Bergh swore to the court that he had not contacted us on this matter since August 29, 1988.

In the interrogations, Defendants threaten to take away our place to live, garnish more monies (after having taken away approximately $37,000), further threaten our minor children, our transportation, and even threaten to take away our phone and other utilities.

This is the way Defendants operated in the past. They would conspire with our attorney of record (named in this case as Defendants) to cause fraudulent trials by obstructing justice and suppressing evidence, they would

illegally garnish all the Merrigans' money and make it impossible for the Merrigans to file any action against the Defendants.

Respondent Ahlstrand, et al., as the evidence proves, conspired with Johnston, II, and Parsons with their outrageously fraudulent trials and garnishments.

When the Merrigans would file any type of legal actions against the Affiliated Bank-shares, they would immediately begin a black-mail action against them as in this case Tom Bergh and Ahlstrand conspired to do.

This was submitted to the court in the Merrigans' hearing (1) Motion to Amend Original Complaint under Rule 56 F.R.C.&P. Summary Judgement - Denied by the Court; (2) Merrigans' response to the Magistrate Judge's

recommendations - ignored by the Court; (3) Merrigans' pre-trial order of September 6, 1991 - ignored by the court.

Defendant Thomas Bergh has not answered one court motion or order, has not responded to one motion of the Plaintiffs since he submitted these perjurious and fraudulent affidavits on April 8, 1991, still Thomas Bergh's case was dismissed by the court.

PLAINTIFFS RESPONSE TO RECOMMENDATIONS OF THE U.S. MAGISTRATE JUDGE DATED SEPTEMBER 24, 1991

The court states: "The Plaintiffs have responded only as to Larry Berg, Ann Meredyth and William Parsons as to show cause order pursuant to Local Rules 201. The Plaintiffs

attempted service on Defendants Ann Meredyth and Larry Berg in January, 1991. They made no attempt at services since that date."

Plaintiffs shows cause order clearly states that above named Defendants were served pursuant to F.R.C.&P. Rule 4; that the evidence of service was in the file as Plaintiffs had returned the proof of service to the court as required.

Plaintiffs also sent additional copies of service to the court in Denver.

This proof of service was ignored by the court and Ann Meredyth and Larry Berg were dismissed, they have never answered the original complaint and were in contempt of court and default.

Defendant William Parsons through his lawyer Kenneth Johnston, II, answered the original compliant, but very few court orders or motions since. By law, he, too, should be declared in default; he too was dismissed by the court.

COURT OF APPEALS

Petitioners filed an appeal to the Tenth Circuit of Appeals in Denver, Colorado, to appeal the order and judgement of Judge Lewis T. Babcock in the U. S. District Court, dated October 4, 1991.

The appeal was filed on a timely basis pursuant to Federal Rules of Appellate Procedure.

On March 2, 1992, we received from the court a final judgement denying our appeal.

The judgement was unsigned and bears the names of the Honorables Moore, Tacha and Brorby.

The order and judgement states that these three Circuit Judges have turned the last two digits of the title our case is filed under of civil rights § 1343 and ruled under the title of bankruptcy 1334. Therefore, jurisdiction statute of limitations need not apply. As previously stated, the court and Defendants continually tried to change the Title and section our case was filed under.

This is outrageous. The Honorable Judge Green originally transferred our case of civil rights 1343 from the U. S. District Court in Washington, D. C. to the U. S. District Court in Denver under §1343 stating venue for civil rights under §1343 lies in any U. S. District Court.

§ 1343 is stated throughout the entire action and it is in the Titles and Statutes as required on appeal.

CONCLUSION

Since 1979 when the original action first began, Affiliated Bankshares, Inc., et al, have conducted a criminal misuse of their money and power.

After they had ruined our credit to protect their land-grab and our Small Business Loan was turned down, they continued to use this power and money to unmercifully prosecute the Merrigans.

Denise Merrigan had done business with the Affiliated Bankshares of Lafayette ten years before they ruined our credit. A Business checking account was kept in the five figures, she had a $25,000 second

mortgage with the bank and the payments were kept paid five and six months in advance. Bank officers admitted that her relationship with the bank was outstanding, yet they continued to prosecute us by slander and libel to ruin our credit to the extent that the Merrigans couldn't even buy a car.

Petitioners at the time had an A1 credit rating with the credit bureau, the highest credit rating given. Affiliated Bankshares refused to report our credit rating to the credit bureau. For a bank credit reference, finance people had to go directly to the bank, where they libeled and slandered us to the extent no financial institute would give us credit.

Court evidence provides the Affiliated Bankshares, Inc., considers themselves above the law, they make their own laws and if you break them, you are severely punished.

Using their money and power, they conspired with H. Kenneth Johnston, II and William Parsons by suppressing evidence and obstructing justice to steal over $37,000 from the Merrigans in an outrageously fraudulent lawsuit.

Affiliated Bankshares, Inc. have used the law for blackmail. An example of this is Tom Bergh, our former attorney, and William Ahlstrand conspiring another perjurious, fraudulent affidavit in federal court for the obvious reason of blackmailing the Merrigans into dropping the action. When the court enforced no sanctions on these crimes, it was again obvious that Affiliated Bankshares, Inc., had used the money and power to further suppress evidence and obstruct justice in a U. S. District Court and the Tenth Circuit Court of Appeals.

Tom Bergh and William Ahlstrand, as every Defendant in this case knew the court would impose no sanctions or they wouldn't have committed the crimes that they did of perjury, fraud and contempt of court.

Affiliated Bankshares, Inc., et al., have made a complete criminal mockery of the justice and court systems of this country.

They should be prosecuted both criminally and civilly for an example that no financial institution will even think to use their money and power again to make a mockery out of this country's justice system.

Merrigans have an overburden of evidence proving every accusation of this action and we are the court's convenience to furnish them with this evidence.

For the reasons set forth in this petition, Petitioners respectfully request this Court to grant the writ of certiorari.

Respectfully submitted this 29th day of May, 1992.

Edward F. Merrigan

Denise L. Merrigan

Denise L. Merrigan, Pro Se
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(303) 772-1895 or 772-2645

APPENDIX

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

EDWARD F. MERRIGAN and DENISE L. MERRIGAN, Plaintiffs-Appellants, vs. AFFILIATED BANKSHARES OF COLORADO, INC., AFFILIATED FIRST NATIONAL BANK OF LAFAYETTE, JOSEPH DISTEL, GORDON WAGNER, WILLIAM BURNS, ALVIN TOMLINSON, WILLIAM AHLSTRAND, ANDREW ROSEN, MARTIN BERKLEY, I. H. KAISER, LARRY BERG, THOMAS R. BERGH, LEE HAWKE, H. KENNETH JOHNSTON II, WILLIAM A. PARSONS, and ANN MEREDYTH, Defendants-Appellees	No. 91-1367 D.C. 91-B-371 Denver, Colorado On Appeal from the U. S. District Court Denver, Colorado

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ORDER AND JUDGEMENT OF THE
U. S. DISTRICT COURT
DATED OCTOBER 4, 1991

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Lewis T. Babcock

Civil Action No. 91-B-371

EDWARD F. MERRIGAN and DENISE L. MERRIGAN,

Plaintiffs,

v.

AFFILIATED BANKSHARES OF COLORADO, INC., AFFILIATED FIRST NATIONAL BANK OF LAFAYETTE, JOSEPH DISTEL, GORDON WAGNER, WILLIAM BURNS, ALVIN TOMLINSON, WILLIAM AHLSTRAND, ANDREW ROSEN, MARTIN BERKLEY, I. H. KAISER, LARRY BERG, THOMAS R. BERGH, LEE HAWKE, H. KENNETH JOHNSTON II, WILLIAM A. PARSONS, and ANN MEREDYTH,

Defendants

ORDER

[1]Plaintiffs object to the Magistrate Judge's recommendations of September 9, 1991 and September 24, 1991 dismissing this action and awarding F.R.C.P. 11 sanctions. Plaintiffs also object to the Magistrate Judge's order of September 9, 1991 awarding attorney fees because plaintiffs did not appear at the pre-trial conference. [2]Having reviewed the record and plaintiffs' objection de novo, I adopt the Magistrate Judge's recommedations as my order, and incorporate them herein by this reference.

---

[1]Defendants Larry Berg, William Parson and Ann Meredyth were served in compliance with F.R.C. & P. 4. Again Plaintiffs sent this evidence to court, again the evidence was ignored. All the defendants were in contempt of court, yet all were dismissed.

[2]Plaintiffs were acting pursuant to Judge Lewis T. Babcock's order of reference to United States

Magistrate Judge dated March 12, 1991 which states - <<the extension of the discovery date shall automatically extend the time for the submission of the pre-trial order>> and local rules of practice rule 404, Appendix C which states the <<pre-trial order shall be presented at the pre-trial conference for court approval>> the pre-trial conference of July 26, 1991 held between the Magistrate Judge Abram and the defendants was held in direct violation of Judge Babcock orders when in show cause order plaintiffs submitted their court orders, the evidence was ignored and plaintiffs were fined attorneys fees and expenses.

Accordingly, IT IS ORDER THAT:

(1) Defendant Affiliated Bank Shares of Colorado, Inc., Affiliated First National Bank of Lafayette, William Ahlstrand, Andrew Rosen, Thomas Bergh, H. Kenneth Johnston II, Martin Berkley, Lee Allen Hawke and I. H.

Kaiser's motions to dismiss are GRANTED;

(2) Defendant H. Kenneth Johnston II's motion for summary judgement is GRANTED;

(3) Plaintiffs' motion for summary judgement is DENIED;

(4) Plaintiffs' motion to amend their complaint is DENIED;

(5) Final judgement shall enter, with costs, in favor of all defendants who were served in this case and against plaintiffs;

(6) Pursuant to Rule 11, plaintiffs shall pay $100.00 to each defendant who was served in this case. Judgement shall enter accordingly;

(7) Pursuant to Rule 11, plaintiffs are

enjoined from filing another federal civil lawsuit against any of the named defendants, regardless of whether they were served in this case, based upon any of the legal or factual claims alleged in this action or any of the prior Boulder District Court lawsuits. If plaintiffs file another lawsuit, the complaint shall be promptly reviewed by a United States Magistrate Judge Donald Abram to ensure compliance with this injunction;

(8) Judgement shall enter against plaintiffs for attorney fees pursuant to the Magistrate Judge's order of September 9, 1991;

(9) This action is DISMISSED without prejudice as to the unserved defendants, Joseph Distel, Gordon Wagner, William Burns, Larry Berg, William A. Parsons, and Ann Meredyth.

Dated in Denver, Colorado this
4th day of October, 1991.

BY THE COURT:

/s/

LEWIS T. BABCOCK, JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 91-B-371

EDWARD F. MERRIGAN and DENISE L. MERRIGAN,

Plaintiffs,

v.

AFFILIATED BANKSHARES OF COLORADO, INC., AFFILIATED FIRST NATIONAL BANK OF LAFAYETTE, JOSEPH DISTEL, GORDON WAGNER, WILLIAM BURNS, ALVIN TOMLINSON, WILLIAM AHLSTRAND, ANDREW ROSEN, MARTIN BERKLEY, I. H. KAISER, LARRY BERG, THOMAS R. BERGH, LEE HAWKE, H. KENNETH JOHNSTON II, WILLIAM A. PARSONS, and ANN MEREDYTH,

Defendants

JUDGEMENT

Pursuant to and in accordance with the Order signed October 4, 1991 by the Honorable Lewis T. Babcock, United States District

Judge, and incorporated herein by reference as if fully set forth, it is

ORDERED that judgement is hereby entered in favor of the defendants, Affiliated Bankshares of Colorado, Inc., Affiliated First National Bank of Lafayette, Alvin Tomlinson, William Ahlstrand, Andrew Rosen, Martin Berkley, I. H. Kaiser, Thomas R. Bergh, Lee Hawke and H. Kenneth Johnston II, and against the plaintiffs, Edward F. Merrigan and Denise L. Merrigan. It is

FURTHER ORDERED that this action and complaint are hereby dismissed with prejudice as to defendants Affiliated Bankshares of Colorado, Inc., Affiliated First National Bank of Lafayette, Alvin Tomlinson, William Ahlstrand, Andrew Rosen, Martin Berkley, I. H. Kaiser, Thomas R. Bergh, Lee Hawke and H. Kenneth Johnson II. It is

FURTHER ORDERED that the above dismissed defendants shall have their costs upon the filing of a Bill of Costs with the Clerk of the court within ten (10) days of entry of this judgement. It is

FURTHER ORDERED that judgement is hereby entered in favor of the defendants, Affiliated Bankshares of Colorado, Inc., Affiliated First National Bank of Lafayette, Alvin Tomlinson, William Ahlstrand, Andrew Rosen, Martin Berkley, I. H. Kaiser, Thomas R. Bergh, Lee Hawke and H. Kenneth Johnston II, and against the plaintiffs, Edward F. Merrigan and Denise L. Merrigan in the amount of $100.00 for each of these defendants, pursuant to F.R.C.P. 11. It is

FURTHER ORDERED that post-judgement interest shall accrue at the legal rate of 5.57% from the date of entry of this judgement. It is

FURTHER ORDERED that pursuant to F.R.C.P. 11, plaintiffs are enjoined from filing another federal civil lawsuit against any of the name defendants, regardless of whether they were served in this case, based upon any of the legal or factual claims alleged in this action or any of the prior Boulder District Court lawsuits. If plaintiffs file another lawsuit, the complaint shall be promptly reviewed by a United States Magistrate Judge to ensure compliance with this injunction. It is

FURTHER ORDERED that judgement shall enter against the plaintiffs for attorney fees pursuant to the Magistrate Judge's order of September 9, 1991. It is

FURTHER ORDERED that this action and complaint are hereby dismissed without prejudice as to the unserved defendants, Joseph Distel, Gordon Wagner, William Burns, Larry

Berg, William A. Parsons and Ann Meredyth.

DATED at Denver, Colorado this
4th day of October, 1991.

BY THE COURT

/s/
Lewis T. Babcock,
Judge
United States
District Court

FOR THE COURT:

JAMES R. MANSPEAKER,
CLERK

/s/
By
Stephen P. Ehrlich
Chief Deputy Clerk

Opinions of the U. S. District Court for the District of Colorado Case No. 91-B-371 Pre-trial Proceeding Before Magistrate Judge Donald E. Abram on July 26, 1991

Directly from the transcript, page 4, lines 10 to 19:

The Court

"There also have been certain motions filed by the Defendants which we intend to - the Plaintiffs, which we intend to take up today. Those being motions to compel the Defendants to respond, that being as to H. Kenneth Johnston, II, the motion to product, as to Lee Hawke, the motion to produce; as to William Parsons and Johnston and motion for order compelling discovery as to Mr. Hawke.

The Court at this time is going to deny each motion. Counsel, what we're going to — what we will do at this time now—"

The Court had already issued orders under F.R.C. & P. 37 ordering Defendants H. Kenneth Johnston, II, Lee Hawke, and William Parsons to produce. These court orders were ignored by the Defendants and the Court took no sanctions.

Page 5, lines 13 to 25, and page 6, lines 1 and 2:

"MR. AHLSTRAND: Your Honor, there is also a discovery motion pending with the two banks, or the bank holding company. And the bank, they filed a motion to produce, we filed an objection and they filed a motion to compel. I have responded to that.

I don't know that that was addressed in relationship to the other pending discovery motions. It's really the same set of – set of issues. the objection was based on the same grounds as other objections that have been filed on.

The reason it's not – we're entertaining the same time frame is that their motions were filed later than the others ones.

THE COURT: All right. I – I do have that in front of me. And that motion will be denied as I've denied all the other motions."

Order and Judgement of the
United States Court of Appeals
Dated March 2, 1992

Which the Petitioners request a Writ of Certiorari under Rules of the Supreme Court Rule 10(a) "that the court has so far departed from the accepted and usual course of judicial precedent on sanctioned such a departure by a lower court as to call for an exercise of this court's power of suppression.

UNITED STATES COURT OF APPEALS

TENTH CIRCUIT

EDWARD F. MERRIGAN and DENISE L. MERRIGAN Plaintiffs-Appellants, v. AFFILIATED BANKSHARES OF COLORADO, INC.; AFFILIATED FIRST NATIONAL BANK OF LAFAYETTE; JOSEPH DISTEL, Chairman of the Board; GORDEN WAGNER, Vice President; WILLIAM BURNS, President; ALVIN TOMLISON, Vice President of Affiliated First of Lafayette; WILLIAM AHLSTRAND, Attorney; ANDREW ROSEN, Attorney; MARTIN BERKLEY, Attorney; I.H. KAISER, Attorney, LARRY BERG, Attorney; THOMAS R. BERGH, Attorney; LEE HAWKE, Attorney; H. KENNETH JOHNSTON, III, Attorney; WILLIAM A. PARSON, Attorney; and ANN MEREDITH, Attorney, Defendants-Appellees.	No. 91-1367 (D.C. No. 91-B-371) (D. Colo.)

ORDER AND JUDGEMENT*

OF THE 10TH CIRCUIT COURT OF APPEALS

Before MOORE, TACHA, and BRORBY, Circuit Judges.

After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist the determination of this appeal. See Fed. R. App. P. 34(a); 10th Cir. R. 34.1.9. The case is therefore ordered submitted without oral argument.

Plaintiffs-appellants Edward and Denise Merrigan appeal from the district court's order that granted defendant H. Kenneth Johnston III's motion for summary judgement;

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* This order and judgement has no precedential value and shall not be cited, or used by any court within the Tenth Circuit, except for purposes of establishing the doctrines of the law of the case, res judicata, or collateral estoppel. 10th Cir. R. 36.3.

granted motions to dismiss filed by served defendants Affiliated Bank Shares of Colorado, Inc., Affiliated First National Bank of Lafayette, Ahlstrand, Rosen, Bergh, Berkley, Hawke, and Kaiser; entered judgement, with costs and attorneys' fees, in favor of the served defendants and against plaintiffs; ordered plaintiffs to pay sanctions to each served defendant pursuant to Rule 11; enjoined plaintiffs pursuant to Rule 11 from filing another federal civil lawsuit against any of the named defendants based upon any of the legal or factual claims alleged in the action; and dismissed the action without prejudice as to unserved defendants Distel, Wagner, Burns, Berg, Parsons, and Meredith. The district court order, adopting recommendations of a United States Magistrate, granted the summary judgement motion and the motions to dismiss on grounds that plaintiffs lack federal court jurisdiction, that the

statute of limitations has run on all of plaintiffs' claims as to all defendants, and that the allegations in plaintiffs' complaint are conclusory and fail to state a federal constitutional or statutory claim.

On appeal, plaintiffs contend that the Magistrate, and hence the district court, erred by denying their exhibits and evidence, by denying their right to discovery, by denying sanctions against defendants Tom Bergh and William Ahlstrand, and by awarding attorneys' fees and travel expenses to defendants after plaintiffs failed to attend a scheduled pre-trial conference.

Although not specifically mentioned by plaintiffs in their brief on appeal, we first address the district court's holding that it lacked jurisdiction to entertain plaintiffs' claims. We review de novo the district

court's determinations regarding jurisdiction. See Trustees of the Colo. Pipe Indus. Pension Trust v. Howard Elec. & Mechanical, Inc., 909 F.2d 1379, 1382 (10th Cir. 1990), cert. denied, 111 S. Ct. 958 (1991). Because plaintiffs proceed pro se, we liberally construe their pleadings. Haines v. Kerner, 404 U. S. 519, 520-21 (1972); Gillihan v. Shillinger, 872 F.2d 935, 938 (10th Cir. 1989).

The district court correctly concluded that because both plaintiffs and most of the named defendants are residents of Colorado, [1] there is no diversity jurisdiction under 28 U.S.C. §1334. The district court also concluded that plaintiffs' complaint fails

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[1] The Court of Appeals justifies all the criminal acts committed in the U. S. District Court merely by reversing the United States Code from 1343, a civil rights case to 1334, a bankruptcy case.

Ignoring jurisdiction under diversity.

to state a claim of conspiracy under 42 U.S.C. § 1985 because it does not allege a racial or class-based invidious discriminatory animus against plaintiffs. We agree. All circuits addressing the issue have concluded that allegations of class-based animus are required to support a claim of conspiracy to obstruct the administration of justice in state courts. See, e.g. Harrison v. Springdale Water & Sewer Comm'n, 780 F. 2d 1422, 1430 (8th Cir. 1986). Although plaintiffs' complaint baldly asserts numerous conspiracies among defendants, it does not assert any class-based animus by defendants. Therefore, the complaint fails to state a claim under § 1985(2).

In addition, construed liberally, plaintiffs' appellate brief contends that defendants violated plaintiffs' rights under the Equal Protection Clause of the Fourteenth

Amendment. However, after reviewing plaintiffs' complaint, we conclude that the complaint does not allege specific facts supporting a claim of discriminatory behavior. Instead, the complaint conclusorily alleges that the outcomes reached in various state court proceedings must have been the result of conspiracies and briberies among defendants. Because the complaint does not set forth facts to support plaintiffs' claims, we conclude that the complaint fails to state an equal protection claim. Further, because the complaint fails to state a federal claim, the district court lacked jurisdiction to entertain plaintiffs' state law claims.

Having concluded that the district court lacked both diversity jurisdiction and federal question jurisdiction to address the claims alleged in plaintiffs' complaint, we

need not address plaintiffs' contentions on appeal that the district court wrongly denied plaintiffs' exhibits and evidence and denied plaintiff's right to discover. [2]However, we briefly address plaintiffs' contentions regarding the court's failure to sanction two defendants and the court's decision to award defendants costs and attorneys' fees after plaintiffs failed to attend a pre-trial conference.

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[2]This also justifies the banks attorney, William Ahlstrand, and our former attorney of record, Thomas Bergh, conspiring to commit an outrageous fraudulent perjurious affidavit to court for no other reason than to blackmail and intimidate the plaintiffs into dropping the case against the bank.

Plaintiffs sent evidence of this to court how fraudulent and perjurious this act was and how the defendants used this in the past knowing we couldn't get honest legal representation or submit evidence to court. They used the law like a weapon to extort money, blackmail and intimidate plaintiffs. Again this evidence was ignored by the court.

We review both a court's decision to award costs and attorneys' fees and also a court's decision regarding sanctions related to discovery under an abuse of discretion standard. See G.J.B. & Assocs. Inc. v. Singleton, 913 F.2d 824, 825 (10th Cir. 1990); Gates v. United States, 752 F.2d 516, 517 (10th Cir. 1985). After reviewing the record with respect to both of these determinations by the district court, we conclude that the court did not abuse its discretion.

Accordingly, the order of the district court is AFFIRMED. The mandate shall issue forthwith.

ENTERED FOR THE COURT

_____

Deanell Reece Tacha
Circuit Judge

Edward F. Merrigan

EDWARD F. MERRIGAN

Denise L. Merrigan

DENISE L. MERRIGAN
943 Sunset St.
Longmont, CO 80501
(303) 772-1895

Plaintiffs pray that this Court moves on a stay or injunction of Judge Babcock's orders of October 4, 1991, in order for Plaintiffs to file their case with the Court of Appeals.

Respectfully submitted this 29th day of May, 1992.

Edward F. Merrigan

Edward F. Merrigan, Plaintiff

Denise L. Merrigan

Denise L. Merrigan, Plaintiff
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